



CITY OF DURHAM | NORTH CAROLINA

Date: March 4, 2014

To: Thomas J. Bonfield, City Manager

Through: W. Bowman Ferguson, Deputy City Manager

From: Joel V. Reitzer, Jr., Director, General Services Department

Subject: Proposed Sale of Air Rights Easement at 106 W. Main Street (parcel 102776) to Empress Development LLC

Executive Summary

Empress Development LLC (Empress), owner of the former Monarch Services building located at 112 West Main Street and identified as parcel 102775 seeks to acquire an easement from the City that will allow it to install windows as part of the renovation of its building. Empress is developing its property into a mixed use development, inclusive of ground-floor retail/restaurant and Class A office space on the second level. As the building footprint encompasses Empress's entire parcel, the inclusion of window openings on the east face of their building requires an air rights easement from the City across the City's adjacent parcel on the east side of their property in order to comply with applicable building codes. The proposed air rights easement is 2,970 square feet (30 feet wide and 99 feet long) of the City-owned open space parcel located at 106 W. Main Street (parcel 102776). The proposed air rights easement is necessary so that Empress's renovation of its building can include window openings on the first and second floors of its building.

The Real Estate Division has conferred with City departments to determine if there is a current or future public use or purpose for the proposed location of the easement. There were no objections from City departments to granting the easement, and the parcel containing the proposed easement area is designated as open space in the Downtown Open Space Plan. Empress Development LLC is in the process of executing an Option to Purchase the easement for a total purchase price of \$2,400.00.

Recommendation

The General Services Department recommends City Council accept Empress Development LLC's offer of \$2,400.00 to purchase a 2,970.00 square foot air rights easement over a portion of parcel 102776 located at 106 W. Main Street, and authorize the City Manager to sell and the City Manager or the Mayor to convey the easement by deed.

Background

Empress Development LLC is renovating the former Monarch Services building into a mixed-use development consisting of ground-floor retail/restaurant and Class A office space on the second level. The plan for a ground-floor restaurant or retail space includes provision of an outdoor patio option.

Issues/Analysis

The 112 W. Main Street property is located in a prime commercial district within the City Center and has suffered for some time from under-utilization. The approval of this easement increases the property's viability as a fully-leased building that further activates existing street level activity in the City Center. In recognition of this, the Office of Economic and Workforce Development approved a Building Improvement Development Grant for the redevelopment of this building in July, 2013.

Renovation plans include exterior windows on the first and second floors of the building, conversion to retail and restaurant space on the first floor, and conversion to Class A office space on the second floor.

The proposed easement will not impact use of the City's adjacent parcel and will not interfere with the intended use of the property. The City property has been identified to be preserved as open space. The proposed easement will provide Empress the ability to increase the potential use and utility of its building, and provide for additional ingress/egress. Empress will be responsible for compliance with all applicable building codes and any other municipal regulations.

Empress will be responsible for all costs associated with this transaction. The costs include, but are not limited to, obtaining legal descriptions of the easement area, paying applicable recording fees, and any other costs such as Planning Department fees and County Land Records fees.

Alternatives

City Council has the discretion to not approve the sale of the easement. This alternative is not recommended as the granting of the easement serves a public purpose and will prevent the redevelopment of the building as currently planned.

Financial Impact

The City will receive compensation in the amount of \$2,400.00 for the easement.

SDBE Summary

This item does not require review by the Equal Opportunity/Equity Assurance Department.

Attachments: Air Rights Easement Area Drawing, Project Rendering, Overview Map.